



**Testimony of Janet Napolitano, Governor of Arizona**

**Submitted to the Subcommittee on Immigration,  
Citizenship, Refugees, Border Security, and  
International Law**

**“Comprehensive Immigration Reform: Impact of  
Immigration on States and Localities”**

Chairperson Lofgren, Ranking Member King, and members of the Subcommittee, thank you for this opportunity to testify on the impact of immigration on the border state of Arizona. I offer my experiences not only as Governor of Arizona since 2003 and Arizona attorney general from 1998 to 2002, but as someone who, unlike many in Washington, has actually walked, flown by helicopter, and even ridden a horse over much of the border's rough, rugged desert and mountainous terrain. I have toured the drug tunnels where cocaine and marijuana enter our country by the ton, have seen the sewers where children—who are crossing the border alone—sleep at night, and have seen the campsites strewn with abandoned clothing, human waste, and refuse. As the U.S. Attorney for the District of Arizona, I have supervised the prosecution of more than 6,000 immigration felonies and broken up drug-trafficking, human-smuggling, and money-laundering rings. As Governor, I have sought to continue to provide for the vital health care, education, and infrastructural needs of the nation's fastest-growing state—all while shouldering the disproportionate burden of the Federal Government's inability to control the borders and provide a meaningful plan for immigration reform.

**Congress must act this year to fix this broken system.** This is not a solitary point of view; governors from the Border States – and the American people across the nation—have made it clear they are tired of waiting. It is past time for action. It is time for Washington to deliver a law that is both enforceable and enforced.

Every day, the citizens of my state, Arizona, grapple with the stark reality of an unsecured border and the massive influx of undocumented immigrants. It touches every level of government—from the expanded morgue necessary in Tucson to deal with bodies found in the desert, to the pressure on law enforcement to break up the market for fraudulent documents and stolen cars, to the pressure on our corrections system which has quite literally forced us to ship 4,921 prisoners across state lines at a cost of \$65 per day. These are, in a sense, the 'sins of omission' – ineffective federal policy that has been left to flounder.

However, the Federal government compounds the pressure with 'sins of commission' like its failure to fully fund the State Criminal Alien Assistance Program (SCAAP). Reimbursement of only pennies on the dollar means the citizens of southwestern border states in particular pay, and pay again, for the incarceration of immigrant criminals who are the responsibility of the Federal government.

Further, the spectre of REAL ID, and its unfunded mandate that will cost states billions of dollars adds to the pressure, and to the consequent lack of confidence that Washington has the will to act and act effectively.

We must commit to immigration as the signature domestic **and** foreign policy issue of our day. I applaud Representatives Flake and Guitierrez, as well as leaders in the Senate, for their efforts to institute a meaningful immigration plan that is tough, fair, and workable. I offer the following recommendations for Congress: 1) Make a financial commitment to secure our borders by adequately funding border personnel (as mandated in the 9/11 Commission Implementation Act) and State Homeland Security Grant

Programs (SHSGP) 2) Provide relief to border states from the unfunded mandates of SCAAP and REAL ID and 3) End the rhetoric, stop the politics, and provide a real plan for comprehensive immigration reform.

**Adequately Funding Border Personnel and SHSGP:**

Let me be abundantly plain and clear: **security of the U.S. – Mexico border is a Federal responsibility.**

I have long contended that the federal government has lost operational control of the U.S.-Mexico border, which is why I was the first Governor in the nation to call for the deployment of the National Guard to southwestern Border States in support of the Border Patrol. Operation Jump Start, which has assisted in surveillance efforts and infrastructure construction, along with Operation Stonegarden, which has worked with local law enforcement patrols along the Southern border to dissuade illegal crossers, have produced a measurable decrease in apprehensions at the international border.

Further, in Arizona I have implemented a wide range of state and local initiatives – the Fraudulent ID Task Force and the Vehicle Theft Task Force are examples – but these are stopgaps. They are a drain to state and local resources and can in no way be construed as a full answer to the border crisis.

The Intelligence Reform and Terrorism Prevention Act of 2004 includes a five-year border security plan based on the 9/11 Report's recommendations. Although it is encouraging to see a hard timeline and proposed legislation attached to the recommendations, a worrisome discrepancy remains between the actions called for in the recommendations and the allotted funding. The 9/11 Commission's stinging assessment of the progress made in the five years since September 11<sup>th</sup> showed a sobering shortage of Border Patrol agents, ICE investigators, and federal detention centers necessary to truly secure the border.

Also central to the states' efforts to promote border security is the DHS State Homeland Security Grant Program (SHSGP). As current Chair of the National Governors Association, I am uniquely positioned to hear from governors, and their state homeland security directors, as they continually express their frustration and concern about the process by which funding allocations are made.

Nationwide, SHSGP funding has declined 75% since 2004. Despite being the nation's fastest-growing state, home to the nation's largest power plant, fifth largest city, sixth busiest airport, and overseeing the nation's most porous federal border, Arizona has experienced a 50% drop in funding from last year and a 2/3 drop since 2004. The city of Phoenix, despite an average population gain of 100,000 per year, has seen its federal homeland security grant funding reduced by over 60% in the last year alone. While our state is doing everything it can to protect its citizens, it remains unclear to me how, while the federal government has yet to secure our borders, the threat against our state has been somehow reduced by 75%.

All the while, in Arizona and in all the states, requests made to DHS for explanation or clarification have been continually ignored or rebuffed.

Furthermore, the NGA Governors Homeland Security Advisors Council has recommended to DHS Secretary Michael Chertoff that DHS build-out a multi-year grant program so that State Homeland Security advisors can have an understanding of the budget outlook beyond the current fiscal year in order to build out realistic and workable multi-year plans. A transition to a more risk-based formula, so long as each state is provided a base amount of funding to ensure preparedness and response, is also vital to ensuring that resources are directed to the areas of greatest need.

### **Reducing the Burden of Unfunded Mandates:**

In addressing reform and attempting to remedy the undue burden already carried by Border States, Congress must take care not to simply shift costs to the states for its failed immigration policies. As I have earlier identified, SCAAP and REAL ID stand out as two examples of the ineffective method of attempting to push away costs rather than truly address and answer the real issues. Removing a cost from a Federal accounting book by simply shoving it onto a state ledger is not reform.

Under 8 U.S.C. § 123(i)(1), the federal government is required to either take custody of undocumented criminal aliens, or fully reimburse states for the cost of incarceration. Currently, our largest prison in Arizona, ASPC-Lewis, holds 4,921 inmates. Statewide, 4,661 inmates are criminal aliens. With the number of foreign nationals in the inmate census growing at a rate of 60% (and the remaining prison population growing at half that rate), it is more imperative than ever that the federal government live up to its responsibility for these inmates. If the federal government confined the entire immigrant criminal population as it should, **and as its own law requires it to do**, Arizona would no longer need to ship inmates to be housed in out-of – state prisons in Indiana at \$65 per day and Oklahoma at \$59.45 per day simply to remove the pressure on Arizona’s overcrowded prison system.

Since October 2004, I have sent Attorney General Alberto Gonzalez a yearly invoice for unreimbursed costs of incarcerating illegal aliens—the last one totaling \$357,516,523.12. There has been only minimal reimbursement. For what Arizonans are absorbing in these costs alone, we could pay for an all-day kindergarten for every five-year-old in the state. At a minimum, SCAAP must be funded at its authorized amount of \$950 million.

Similarly, the REAL ID Act of 2005 requires not only a serious examination of the feasibility of timelines for statewide systems and nationwide databases to be fully and effectively implemented, but requires Congress to fully fund the estimated \$14 billion over ten years that is currently being cost-shifted to states. In addition to working with DHS to implement a realistic timeline for implementation of state systems, Congress should fully fund REAL ID at the states’ estimated of costs of \$11 billion over five years,

with \$1 billion in startup costs for FY2008. Providing states with the necessary start-up costs to begin implementing the law and enrolling the nation's 245 million drivers license holders is an important first step to ensuring that the law is both workable and effective.

### **Aspects of Meaningful Comprehensive Reform:**

Piecemeal measures without a strong plan for comprehensive immigration reform cannot work. I appreciate the spirit of bipartisanship and practicality in Representatives Flake and Gutierrez's STRIVE Act and the willingness of Senate leader to work together toward a comprehensive measure.

Here are what I believe to be essential aspects of any workable plan for immigration reform:

- 1) The first is the development of innovative, technology-driven border control between ports of entry.** Boots on the ground definitely help, but we can short up our border gaps with ground-based sensors, radar, and unmanned aerial vehicles for wide-area intrusive-detection. Any combination of the above will work far better than any 10 or 20 or 50 miles of wall. The Dept of Homeland Security is now installing this kind of technology. They need increased funding to sustain their efforts.
- 2) We must fundamentally reform the visa system and streamline the visa process.** The temporary worker program in the United States is inadequate and fails to deal with both the ongoing economic need and demand for lawful immigration in this country as well as the enormous backlog of immigrants seeking legal status. It takes an average of ten years to receive a legal immigrant visa from Mexico, which only serves as an incentive to cross illegally. For employers competing for the best and brightest across the globe, the demand for H-1B visas is so great that annual quotas are filled each year by April, forcing high tech companies to wait months or years to hire qualified foreign engineers, ultimately rendering the United States less competitive.
- 3) Congress must acknowledge that illegal immigration is a supply-and-demand problem, and must address both sides of the equation.** Employers must be held accountable and penalized for knowingly hiring undocumented workers. This means providing the Department of Justice with additional resources to prosecute employer enforcement, as well as additional resources to the Departments of State and Homeland Security to implement employment verification systems. Further, existing federal identification verification systems should be able to interface with Social Security databases so employers can perform real-time verification.
- 4) We must institute a temporary worker program with no amnesty.** Foreign labor should not be a substitute for U.S. workers. But it is critical that we bring foreign workers out of the shadows, put the clamps on the underground labor market, and bring greater stability to our workforce.

5) **We must modernize our border infrastructure.** Border enforcement designed to stop drugs and other contraband should not hinder the flow of legitimate travel and commerce. In Arizona, we are now developing cyberports and FAST lanes to ensure that our trade and goods travel quickly and safely through our ports. Much more can and should be done.

6) **Congress must discard the “report to deport” theory.** The only realistic alternative we have for the estimated 11 million illegal immigrants now living in the United States is to create a strict, stringent pathway to citizenship. That pathway must involve a substantial fine, learning English, having no criminal history, keeping a job, paying taxes, then getting in the back of the line and then waiting your turn.

7) **Congress and the President must address the root causes of illegal immigration by directly engaging Mexico and Latin America.** Mexico has a responsibility to control its own borders and address systemic rural poverty. We need to improve the standard of living in these countries and make progress by promoting opportunity, ownership, credit and capital. Capital investment, as well as serious negotiations with Mexico regarding their commitment to combat human and drug trafficking across its borders, is a vital component of any meaningful immigration plan.

Immigration reform is not simple, but it can be done, and it can be done on a bipartisan basis. In 2006, the difficulties of immigration reform and the federal government’s dismal track record in addressing the problem of illegal immigration prompted the Western Governors Association, which I chaired at the time, to sit down, together, and develop a solid framework for reform. We left our politics at the door, and brought with us a commitment to examine the challenge from *all* angles and create a solution that addresses all components. The reform proposal reflects our shared belief that no singular approach to our immigration problems will succeed. The governors believe that enforcement alone is not the answer. Similarly, a temporary worker program alone is no panacea for the status of our system.

Drafted by Utah’s Governor Huntsman and me, the WGA strategy received not just bipartisan but unanimous support from our colleagues. I would venture to say that no other immigration proposal has received such diverse political support.

Arizona is waiting. So is California, New Mexico and the President’s home state of Texas. In fact, all of America is waiting – and time is running out.

It is going to require Congress to end the rhetoric, stop the politics, provide sustained funding, and turn away from extreme, unworkable solutions that solve nothing and only delay the benefits of real reform.

We can restore our respect for the rule of law and our rich immigrant heritage while preparing our economy and workforce for a changing world. For the sake of our nation, we must.

